

NOT FOR PUBLICATION

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

JUSTINE BRITLAND, : CIVIL ACTION NO. 11-6204 (MLC)
Plaintiff, : **O P I N I O N**
v. :
A.M. BEST COMPANY, INC., et al., :
Defendants. :
_____ :

THE PLAINTIFF, Justine Britland, brought this action in state court to recover damages pursuant to only state law. (Dkt. entry no. 1, Not. Rmv., Ex. A, Compl.) The defendants, A.M. Best Company, Inc. ("AMBC") and Tina Bukow-Truman, removed the action to this Court based on jurisdiction pursuant to 28 U.S.C. § ("Section") 1332, as (1) Britland is allegedly a Pennsylvania citizen, (2) AMBC is deemed to be a New Jersey citizen, and (3) Bukow-Truman is a New Jersey citizen. (Not. Rmv. at 2-3.) AMBC and Bukow-Truman had the burden of demonstrating that removal was proper in the Notice of Removal. See 28 U.S.C. §§ 1446(a), 1447(c).

THE REMOVAL is barred by the forum-defendant rule as set forth under Section 1441(b). Pursuant to the forum-defendant rule, a state court action that could have been brought initially in federal court under Section 1332 is "removable only if none of the parties in interest properly joined and served as defendants

is a citizen of the State in which such action is brought". 28 U.S.C. § 1441(b); see Lincoln Prop. Co. v. Roche, 546 U.S. 81, 84 (2005) (stating "[d]efendants may remove an action on the basis of diversity of citizenship if there is complete diversity between all named plaintiffs and all named defendants, and no defendant is a citizen of the forum State"); Bor. of W. Mifflin v. Lancaster, 45 F.3d 780, 785 (3d Cir. 1995) (stating "[Section] 1441(b) diversity cases have an additional obstacle to removal: a resident defendant is barred from removing to federal court"). The removal of this action is barred, as at least one defendant is a citizen – indeed, both AMBC and Bukow-Truman are citizens – of the state in which such action was brought, i.e., New Jersey.

THE COURT will therefore remand the action to state court based on the forum-defendant rule under Section 1441(b). The Court will issue an appropriate Order and Judgment.

s/ Mary L. Cooper
MARY L. COOPER
United States District Judge

Dated: October 21, 2011